

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JORGE HEREDIA,

Plaintiff(s),

-vs-

**WALMART, INC. ABC CO. 1-10 And
JOHN DOE 1-10**, said names being
fictitiously, true names currently unknown,

Defendant(s).

INDEX NO.:

Civil Action

PETITION FOR REMOVAL

Removing Defendant **WALMART INC.**, (hereinafter referred to as “Removing Defendant”), upon information and belief, states as follows:

1. On or about May 2, 2022, Plaintiff Jorge Heredia commenced an action against the Removing Defendant in the Superior Court of New Jersey, County of Union, bearing Docket Number UNN-L-1274-22. A copy of the Complaint is annexed hereto as **Exhibit “A”**.
2. Plaintiff is a resident of the State of New Jersey. (See, **Exhibit “A”**, Complaint).
3. Removing Defendant is a corporation organized and existing under the laws of the State of Delaware with a principal place of business in Bentonville, Arkansas.
4. There is complete diversity of citizenship between Plaintiff and Defendant.
5. Removing Defendant was served with Plaintiff’s Complaint less than thirty (30) days ago.
6. Upon information and belief, the amount in controversy is more than \$75,000.00, exclusive of interest and costs.

7. Accordingly, this Court has diversity jurisdiction of this action pursuant to 28 U.S.C § 1332, and Removing Defendant is entitled to removal of this action pursuant to 28 U.S.C § 1441.

WHEREFORE, Removing Defendant prays that this action be removed to the United States District Court for the District of New Jersey, pursuant to 28 U.S.C § 1441 and § 1446.

COTTRELL LAW GROUP

*Attorneys for Defendant,
Walmart Inc.*

By:



Floyd G. Cottrell, Esq. /009391985

fcottrell@cs-njnylawfirm.com

3 University Plaza Drive, Suite 500

Hackensack, New Jersey 07601

Phone: (973) 643-1400, Ext. 13

Fax: (973) 643-1900

Our File No.: 25-20-759

Dated: May 12, 2022

Exhibit “A”

GARY J. LUSTBADER, ESQ.

80 Main Street

West Orange, NJ 07052

(973) 736-1533

Attorneys for Plaintiff(s)

ID# 007991984

		SUPERIOR COURT OF NEW JERSEY
JORGE HEREDIA	:	LAW DIVISION: UNION COUNTY
		DOCKET NO. UNN-L-
Plaintiff(s)	:	
-vs-		Civil Action
WALMART, INC. ABC CO. 1-10	:	<u>COMPLAINT AND DEMAND</u>
And JOHN DOE 1-10, said names	:	<u>FOR TRIAL BY JURY</u>
being fictitious, true	:	
names currently unknown	:	
Defendant(s)	:	

The plaintiff, Jorge Heredia, residing at 313 Rosehill Place in the City of Elizabeth, County of Union, and State of New Jersey, by and through his attorney, Gary J. Lustbader, Esq., complaining of the defendants, states as follows:

FIRST COUNT

1. On or about June 6, 2020, and prior thereto, the defendants, Walmart, and/or ABC Co. 1-5 and/or John Doe 1-5, was the owner, operator and in control of the premises located at 100 North Main Street in the Borough of Manville, County of Somerset, and State of New Jersey.

2. On or about June 6, 2020, the defendants maintained the premises and floors in a negligent, reckless and careless manner by allowing said premises and floors to become in a state of disrepair and in a dangerous and hazardous condition

for anyone lawfully upon the premises as aforementioned.

3. The defendants, through their agents, servants and/or employees were in charge of and responsible for the maintenance, control, operation, construction, inspection, supervision, repair, safety, cleaning and management of the aforementioned premises.

4. The defendants, and each of them, had a duty to warn plaintiff of the dangerous and unsafe condition existing on the aforesaid premises of which they knew or should have known.

5. The defendants, and each of them, breached their duty to persons lawfully on said premises and more particularly to the plaintiff, Jorge Heredia, by carelessly, recklessly and negligently constructing, supervising, maintaining, cleaning, inspecting, controlling and repairing the aforesaid premises and by failing to adequately warn plaintiff of the dangerous and hazardous conditions on said premises and floors.

6. The plaintiff, Jorge Heredia, on or about June 6, 2020 was lawfully on the premises as aforescribed.

7. On the date and place aforestated, the plaintiff was caused to slip, fall and become injured when plaintiff fell on debris and/or a liquid substance on the floor in the defendant's premises as a result of the negligence, recklessness and carelessness of the defendants herein.

8. As a direct and proximate result of the negligence,

carelessness and recklessness and the nuisance adopted, created and maintained by the defendants herein, the plaintiff was severely and permanently injured, suffered and will in the future suffer great pain and mental anguish; required and will in the future require medical care and assistance, and incurred expenses for same, and was deprived and prevented and will in the future be deprived and prevented from carrying on his usual pursuits and occupations, and was in other ways injured and damaged to his great detriment.

WHEREFORE, plaintiff demands judgment against the defendants on this Complaint for:

- A) Compensatory damages;
- B) Interest;
- C) Costs of suit;
- D) Attorneys fees

SECOND COUNT

1. The plaintiff repeats each and every allegation contained within the First Count as if same were set forth herein at length.

2. The defendant, John Doe 6-10 and/or ABC Co. 6-10, were companies and entities responsible for the construction, janitorial services, ownership, operation, control, maintenance, management, supervision, repair and safety of the area, and floors of the Walmart store located at 100 North Main

Street in the Borough of Manville, County of Somerset, and State of New Jersey.

3. The defendants, individually and collectively were responsible for the construction, cleaning, ownership, operation, control, maintenance, and management of the premises and floors of the Walmart store located at 100 North Main Street in the Borough of Manville, County of Somerset, and State of New Jersey.

4. The defendants, individually and collectively all had a duty to exercise reasonable care in the control, design, maintenance, repair and safety of the premises and floors located at 100 North Main Street in the Borough of Manville, County of Somerset, and State of New Jersey.

5. The defendants failed to exercise reasonable care in the exercise of their duties.

6. The defendants created and/or maintained a dangerous condition and had actual and/or constructive notice thereof which was the proximate cause of plaintiff's injuries and failed to warn the plaintiff of the dangers therein.

7. As a direct and proximate result of the defendant's negligent acts and/or omissions, the plaintiff, Jorge Heredia was severely and permanently injured, suffered, still suffers and will in the future suffer great pain and anguish, was, still is and will in the future be incapacitated from

continuing his usual course of conduct and employment, was, still is and will in the future be obliged to undergo medical and other needed care for the relief of his aforesaid injuries, and to incur large expenses for same, and was otherwise damaged and restricted in her bodily movements, conduct, activities and functions, past, present and future.

WHEREFORE, plaintiff, Jorge Heredia, demands judgment against the defendants on this Count of the Complaint for:

- A) Compensatory Damages;
- B) Interest;
- C) Costs of Suit;
- D) Attorneys' Fees.

BY: 
GARY J. LUSTBADER, ESQ.

DATED: May 2, 2022

Plaintiff hereby demands trial by jury on all issues of this action.

BY: 
GARY J. LUSTBADER, ESQ.

DATED: May 2, 2022

CERTIFICATION OF COUNSEL

1. Pursuant to Rule 4:5-1, the undersigned hereby certifies that at the time of filing this pleading, the matter in controversy is not the subject of any other action pending in any court and/or arbitration proceeding.

2. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

BY: 
GARY J. LUSTBADER, ESQ.

DATED: May 2, 2022

Civil Case Information Statement

Case Details: UNION | Civil Part Docket# L-001274-22

Case Caption: HEREDIA JORGE VS WALMART, INC.

Case Initiation Date: 05/02/2022

Attorney Name: GARY J LUSTBADER

Firm Name: GARY J. LUSTBADER

Address: STE 450 80 MAIN ST

WEST ORANGE NJ 070520000

Phone: 9737361533

Name of Party: PLAINTIFF : Heredia, Jorge

Name of Defendant's Primary Insurance Company
(if known): None

Case Type: PERSONAL INJURY

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Jorge Heredia? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

05/02/2022
Dated

/s/ GARY J LUSTBADER
Signed

